

OUTCOME DETAILS

**Supreme Court - Civil
at Supreme Court Sydney
on 30 January 2023**

2018/00310118-001 / Statement of Claim: Komlotex Pty Ltd v AMP LIMITED

HH makes orders in terms of short minutes of order initialled and dated today's date.

Short Minutes of Order

E-trial and real time transcript

1. The trial of this proceeding be conducted as an electronic trial (e-trial) using documents in an electronic format in accordance with an Electronic Hearing Protocol (Protocol) to be agreed by the parties.
2. The parties are to confer and engage an e-trial service provider to facilitate the e-trial (e-trial Provider) by 1 March 2023, or in default of agreement as ordered by the Court.
3. The parties are to confer and agree on the Protocol by 6 April 2023, or in default of agreement as ordered by the Court.
4. Leave be granted for a real-time live transcript service to be used by any party on each day of the hearing.
5. The costs of the e-trial service provider are to be costs in the cause, but borne in the first instance as follows:
 - a. half of the shared costs, being the costs of providing the e-trial facilities and the e-trial provider's support staff (including court operator, live stream and/ or broadband facilities and in-court connection to a real-time/progressive transcript service), be borne by the Defendant, with the other half to be borne jointly by the Plaintiffs; and
 - b. individual costs be borne by the parties on the basis of each individual party's use of the services, including the cost of:
 - i. supplying computers, screens and standard software;
 - ii. subscribing to a hardcopy transcript or electronic transcript service;
 - iii. any additional licences for an in-court connection to a real-time/progressive transcript service;
 - iv. remote access to the electronic courtroom; and
 - v. technical support for the individual benefit of a party.

Electronic Court Book

6. The Electronic Court Book is to comprise:

- a. Part A: Final versions of all pleadings, particulars and common questions;
- b. Part B: All affidavits and expert reports on which the parties intend to rely at the hearing;
- c. Part C: All documents annexed, exhibited, or referred to in documents included in Parts A and B; and
- d. Part D: Any additional documents (or parts thereof), in chronological order, on which the parties propose to rely at trial.

7. By 10 July 2023, the Plaintiffs are to:

- a. serve upon the Defendant and provide the e-trial provider with an electronic index of the Plaintiffs' Part A, B, C and D documents (Plaintiffs' Index); and
- b. provide the e-trial Provider with copies of all documents referred to in the electronic index in accordance with the Protocol; and
- c. serve upon the Defendant copies of any document not previously discovered that the Plaintiffs propose to include in the Part C or Part D Index, processed in accordance with the Protocol.

8. By 24 July 2023, the Defendant is to:

- a. serve upon the Plaintiffs and the e-trial Provider an electronic index of any further documents referred to in Order 6 that were not included in the Plaintiffs' Index;
- b. provide the e-trial provider with copies of all further documents referred to in the electronic index in accordance with the Protocol; and
- c. serve upon the Plaintiffs copies of any document not previously discovered that the Defendant proposes to include in the Part C or Part D Index, processed in accordance with the Protocol.

9. By 31 July 2023, the e-trial provider provide the Plaintiffs and Defendant with a consolidated electronic index to the Electronic Court Book identifying all documents set out at Order 6(a)-(d) above (Consolidated Index).

10. Each of the Plaintiffs' Part C and Part D Index, the Defendant's Part C and Part D Index, and Part C and Part D of the Consolidated Index must contain the following fields:

- a. document date;
- b. unique document identification number;
- c. document type;
- d. document title;
- e. author/from;
- f. recipient/to;
- g. host reference;
- h. attachment ID;
- i. where applicable, the material (eg. pleading, affidavit, or report) that the proposed tender document is referenced within; and

j. the tendering party.

11. By 5pm on 4 August 2023 the Electronic Court Book be made available to the parties and to the Court by the e-trial provider.

12. The Electronic Court Book be a library of documents potentially to be tendered or put to any witness, and a document shall not be taken as admitted into evidence by reason of its inclusion in the Electronic Court Book.

13. Following the close of evidence, the solicitors for the parties shall liaise with the Associate to the trial judge to remove from the Electronic Court Book any document not admitted into evidence.

Justice M Ball

Signed

Date